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**Elimination of racism and racial discrimination: elimination of racism and racial discrimination**

# The fight against racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

## Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by Mr. Doudou Diène, Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, in accordance with General Assembly resolution 58/160.

*Summary*

In this report, the Special Rapporteur reviews the activities in which he participated in the context of the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. He took part in the deliberations of the sixtieth session of the Commission on Human Rights in March 2004, where he introduced his second report on the situation of Muslim and Arab peoples in various parts of the world in the aftermath of the events of 11 September 2001 (E/CN.4/2004/19), his general report on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2004/18), his reports on his missions to Guyana and Trinidad and Tobago (E/CN.4/2004/18/Add.1), Canada (E/CN.4/2004/Add.2) and Colombia (E/CN.4/2004/18/Add.3) and his preliminary

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** This document is submitted late so as to include the most up-to-date information possible.

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report on his mission to Côte d'Ivoire (E/CN.4/2004/18/Add.4). The Special Rapporteur also participated in a series of meetings and seminars. On 1 March 2004, he met with members of the Committee on the Elimination of Racial Discrimination, who welcomed this useful encounter. On 9 and 10 March 2004, the Special Rapporteur visited Washington, D.C., for a meeting with the Inter-American Commission on Human Rights and non-governmental organizations. The Special Rapporteur also took part in the first World Forum on Human Rights, organized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Nantes, France, from 16 to 19 May 2004, notably in a plenary session on globalization and the struggle against all forms of discrimination and exclusion. From 21 to 25 June 2004, the Special Rapporteur participated in the eleventh meeting of special rapporteurs, representatives, independent experts and chairpersons of working groups of the Commission on Human Rights.

This report also covers the Special Rapporteur's mission to Côte d'Ivoire, at the conclusion of which he observed that, while there is no tradition of xenophobia in the country, the current crisis has caused a split in the inter-ethnic fabric, driving the country into a dynamic of xenophobia. The Special Rapporteur therefore underlines the need for all those involved in the crisis in Côte d'Ivoire to broadcast a clear message acknowledging the risk of a division along ethnic lines and asserting their resolve to combat this dynamic of xenophobia. In addition, the report deals with the Special Rapporteur's recent mission to Central America — to Guatemala, Honduras and Nicaragua. In his preliminary comments on the mission, he stresses the persuasiveness of racial discrimination in this region and its deep historical roots. He also emphasizes the political authorities' total failure to recognize this reality and the importance of elaborating a strategy to combat racial discrimination while establishing genuine democratic multiculturalism.

With regard to contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur stresses the new challenges in the struggle against racial discrimination and xenophobia, particularly the weakening of solidarity among victims. He underscores the importance of an intellectual front to combat racism, discrimination and xenophobia and the new complexity of the struggle against all forms of discrimination owing to the conflation of race or ethnicity with religion and culture. The Special Rapporteur then deals with Islamophobia, anti-Semitism and Christianophobia, as well as racism in sports and racism on the Internet, and makes comments and proposals on how to address these issues. He also outlines the measures taken by a certain number of countries to combat racial discrimination and xenophobia and, lastly, makes recommendations.

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# I. Introduction

1. In its resolution 58/160 of 20 March 2004 on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action, the General Assembly expressed deep concern that, despite continuing efforts, racism, racial discrimination, xenophobia and related intolerance and acts of violence persisted and even grew in magnitude, incessantly adopting new forms, including tendencies to establish policies based on racial, religious, ethnic, cultural and national superiority or exclusivity. The Assembly was alarmed, in particular, at the increase in racist violence and xenophobic ideas in many parts of the world, in political circles, in the sphere of public opinion and in society at large, inter alia, as a result of the resurgent activities of associations established on the basis of racist and xenophobic platforms and charters, and the persistent use of those platforms and charters to promote or incite racist ideologies. In this context, it recognized with deep concern the increase in anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, communities of people of African descent, communities of people of Asian descent and other communities. In addition, the Assembly was deeply concerned about the misuse, by those advocating racism and racial discrimination, of new communication technologies, including the Internet, to disseminate their repugnant views.

2. The General Assembly therefore emphasized that it is the responsibility of States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, including measures to ensure that such motivations are considered an aggravating factor for the purposes of sentencing, to prevent those crimes from going unpunished and to ensure the rule of law. It condemned the misuse of print, audio-visual and electronic media and new communication technologies, including the Internet, to incite violence motivated by racial hatred, and called upon States to take all necessary measures to combat this form of racism in accordance with the commitments that they have undertaken under the Durban Declaration and Programme of Action (A/CONF.189/12 and Corr.1), in particular paragraph 147 of the Programme of Action, in accordance with existing international and regional standards of freedom of expression and taking all necessary measures to guarantee the right to freedom of opinion and expression. The Assembly also condemned political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination, as well as legislation and practices based on racism, racial discrimination, xenophobia and related intolerance as incompatible with democracy and transparent and accountable governance. In addition, it encouraged all States to include in their educational curricula and social programmes at all levels, as appropriate, knowledge of and tolerance and respect for foreign cultures, peoples and countries.

3. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance was requested to continue his exchange of views with Member States and relevant mechanisms and treaty bodies within the United Nations system in order to enhance further their effectiveness and mutual cooperation. He was further requested to collect information from all concerned, to respond effectively to reliable information that becomes available to

him, to follow up on communications and country visits and to seek the views and comments of Governments and reflect them, as appropriate, in his reports. In the same resolution, the General Assembly called upon States to cooperate with the Special Rapporteur and to give serious consideration to his requests to visit their countries so as to enable him to fulfil his mandate fully and effectively. The Assembly also urged Member States to consider implementing the recommendations contained in the reports of the Special Rapporteur and invited other relevant stakeholders to implement those recommendations. In addition, the Assembly requested the Secretary-General, to provide the Special Rapporteur with all the necessary human and financial assistance to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit an interim report to the General Assembly at its fifty-ninth session.

4. This report has been prepared pursuant to that resolution, the principal provisions of which have been cited above.

# II. Activities of the Special Rapporteur

## A. Participation in the work of the Commission on Human Rights at its sixtieth session

5. From 22 to 27 March 2004, the Special Rapporteur participated in the work of the Commission on Human Rights at its sixtieth session. He introduced his report on the situation of Muslim and Arab peoples in various parts of the world [in the aftermath of the events of 11 September 2001] (E/CN.4/2004/19). He also introduced his general report on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2004/18), his reports on his missions to Guyana and Trinidad and Tobago (E/CN.4/2004/18/Add.1), Canada (E/CN.4/2004/Add.2) and Colombia (E/CN.4/2004/18/Add.3) and his preliminary report on his mission to Côte d'Ivoire (E/CN.4/2004/18/Add.4). These missions were summarized in his previous report to the General Assembly (see A/58/313, paras. 18-23).

6. The Special Rapporteur noted that, despite the commitment undertaken by the international community in Durban to combat racism, racial discrimination, xenophobia and intolerance, there continued to be alarming manifestations of those phenomena characterized by two key trends: (1) the resonance and vitality of resurgent traditional forms of discrimination rooted in colour-based racism, the main targets of which are Blacks, Asians, indigenous peoples, Arabs and Roma, and also in anti-Semitism, Islamophobia and caste systems; (2) the appearance of new forms of discrimination targeting non-citizens, refugees and immigrants.

7. Each of these forms of discrimination, both old and new, has its own ontological peculiarities, historical roots and geographical basis. But all have been invigorated by a new and insidious culture of discrimination stemming from the confluence of ideological, political, economic and social factors. Several explanations may be envisaged for this retreat in the struggle against racism; these doubtless include the waning political commitment to the implementation of the Durban Programme of Action, but also the excessive focus in the international agenda on the fight against terrorism in the wake of the tragic events of 11 September 2001.

8. As a final recommendation, the Special Rapporteur proposed to the Commission on Human Rights that, when contemplating measures against racism, racial discrimination, xenophobia and related intolerance, States should bear the following points in mind:

(a) National programmes should be prepared to combat these scourges as a matter of urgency on the basis of appropriate international instruments and the Durban Declaration and Programme of Action;

(b) These programmes should take account of the cultural depth of racism and discrimination, which is reflected in a growing political and intellectual intolerance of cultural and religious symbols and expressions of communities, groups and individuals;

(c) All countries should pay particularly vigilant attention to the fact that the rejection or non-recognition of the reality of ethnic, cultural and religious pluralism constitutes a major factor favouring the development of new forms of racism and discrimination;

(d) The promotion of pluralism, as a factor fostering the recognition, respect and protection of diversity, and especially of cultural and religious features and expressions, should lie at the core of these programmes;

(e) There is an urgent need to establish a dialectical link between the fight against racism and discrimination in all their forms and manifestations and the promotion of dialogue between cultures and religions and the building of democratic and egalitarian multiculturalism;

(f) The final document of the Durban Conference concerning the recognition and in-depth treatment of the resurgence of Islamophobia and anti-Semitism should be assured vigilant and balanced implementation;

(g) The rise of racism in sport should be recognized and dealt with by all countries through concrete measures, in close cooperation with international sports bodies.

## B. Coordination with other human rights mechanisms and participation in various meetings

9. Continuing the process of regular consultation he initiated last year with the Committee on the Elimination of Racial Discrimination, on 1 March 2004, the Special Rapporteur met with members of the Committee and shared his observations on the countries he has visited (Guyana, Trinidad and Tobago, Colombia and Canada). The members of the Committee welcomed this meeting, which they regarded as a useful tool for exchanging factual information on the various countries and maintaining a coherent approach to the consideration of situations by the different mechanisms.

10. On 9 and 10 March 2004, the Special Rapporteur visited Washington, D.C., at the invitation of the Inter-American Commission on Human Rights and several American non-governmental organizations working to combat racism and racial discrimination. Ms. Edna Roland, an eminent expert on the implementation of the Durban Declaration and Programme of Action, was also invited to these meetings. The meeting with the Inter-American Commission on Human Rights was the second

of its kind and took place within the framework of a process established for the regular exchange of information and the coordination of activities to be undertaken by the two mechanisms in the Americas regions. The Special Rapporteur presented his main observations on his missions to Guyana, Trinidad and Tobago, Colombia and Canada. The Special Rapporteur drew the attention of the Commission's members to the cultural depth, in the countries of the hemisphere, of the historical legacy of racism and discrimination, the ideological underpinning of transatlantic slavery and the colonial system. The racial factor and its corollary, the criterion of skin colour, continue, to differing degrees, to have a profound impact on the structure of society. In his opinion, this fact is not sufficiently recognized or adequately dealt with by the political authorities of the countries of the region. The meetings with non-governmental organizations, beginning with a forum organized by Global Rights, served as a reminder of the fundamental role these organizations played during the World Conference against Racism by presenting factual documents on manifestations of racism and racial discrimination. The Special Rapporteur also drew the attention of the organizations' representatives to the fact that the current international climate is not conducive to efforts to combat racism and racial discrimination owing to the excessive focus on the fight against terrorism. In this context, he emphasized the need for greater mobilization and vigilance on the part of civil society, which must denounce the consequences of always putting security first, especially the marginalization of respect for human rights and the appearance of new forms of discrimination targeting communities and religions. In particular, he appealed for greater mobilization and vigilance on the intellectual front in the fight against racism, given the proliferation of scholarly, literary, journalistic and even scientific output legitimizing the culture of discrimination and discriminatory practices. He encouraged the non-governmental organizations to maintain the commitment to combating all forms of racism and discrimination that had motivated them during the World Conference against Racism, so as to influence the implementation of the final document of this Conference at the national level. The exchanges with those organizations also provided an opportunity to gather information on the impact of security measures on Arab and Muslim peoples in the aftermath of the events of 11 September 2001, an issue on which the Commission on Human Rights has requested the Special Rapporteur to prepare an interim report.

11. The Special Rapporteur also took part in the first World Forum on Human Rights, organized on the initiative of UNESCO in Nantes, France, from 16 to 19 May 2004. During this important meeting, which brought together more than 900 participants from 43 countries, he stressed the resurgence of racism and xenophobia and identified the factors that, in his opinion, have been largely responsible for the retreat in the struggle against racism. He then explained how the concept of diversity, in its pluralistic sense, and intercultural education could constitute solutions for combating the problem of racism in depth. The Special Rapporteur wishes to draw the attention of the General Assembly to the novel nature of the Nantes Forum, which gathered together representatives of States, civil society, victims, intellectuals and researchers, thus creating an opportunity for direct and informal dialogue and debate among the main human rights actors. The Special Rapporteur was invited to present a study on globalization and the struggle against all forms of discrimination and exclusion. He considers that this Forum, which complements the existing mechanisms, should not only become a regular event, but should also be supported and encouraged by the General Assembly and the

Commission on Human Rights with the final outcome being submitted to these bodies.

12. From 21 to 25 June 2004, the Special Rapporteur participated in the eleventh meeting of special rapporteurs, representatives, independent experts and chairpersons of working groups of the Commission on Human Rights. Among the decisions adopted, of particular interest, in the Special Rapporteur's view, is the decision to further enhance coordination among the special rapporteurs so as to facilitate joint action, which is likely to have greater impact. In this regard, the signature of joint communications, urgent or otherwise, and the publication of joint statements on situations requiring an immediate reaction from the human rights mechanisms were recognized as well-established procedures that should guide coordination with a view to joint field missions. In addition, the Special Rapporteur welcomes the decision to encourage the Chairperson of the Commission on Human Rights to protect the independent status of special procedures and to take account of equitable geographical representation in the appointment of mandate-holders. The Special Rapporteur believes that recognizing and consolidating the independence of the Commission's mandate-holders also serves as a guarantee of the Commission's credibility and is a prerequisite for building relations of trust with actual and potential victims of human rights violations. He recommended that the annual meeting of special procedures should also be an opportunity to meet and have a dialogue with organizations and agencies of the United Nations system. For the Special Rapporteur has noted with regret, in the course of his country visits, a lack of commitment to the fight against racism and discrimination and a lack of action on the part of some of these organizations. Moreover, the Special Rapporteur is of the view that the Commission should be more vigilant and proactive in encouraging Member States to cooperate in the fulfilment of the special rapporteurs' mandates, in particular, by agreeing promptly to requests to visit, by examining the special rapporteurs' critical comments objectively and constructively and by following up on their recommendations. In this regard, the Special Rapporteur believes that, in the light of the ethical dimension of his mandate, the dialogue he initiates with the authorities of the countries he visits and the expectations those visits raise among victims, he should be involved on a more systematic basis in the follow-up to his reports and the implementation of his recommendations. He has therefore informed the authorities of the countries he has visited that he wishes to contribute to this phase of his mandate. In this connection, the Special Rapporteur welcomes the positive and constructive response of the Government of Canada to his request for a visit to follow up on his report. Concerning his future programme of work, he hopes that he will receive positive responses to his formal requests for visits from the competent authorities of India, Pakistan, Nepal, Japan and the Russian Federation as soon as possible.

## C. Field missions

13. The Special Rapporteur visited Côte d'Ivoire from 9 to 21 February 2004. The main purpose of this mission, which will be the subject a comprehensive report to be submitted to the Commission on Human Rights at its sixty-first session in March 2005, was to attempt an objective assessment of the role of ethnic factors in the crisis facing the country. The Special Rapporteur's visit benefited from excellent practical and logistical arrangements thanks to full collaboration from the Ivorian

authorities and the openness and active cooperation of the principal political and civil society actors in the crisis, prerequisites for the credibility and objectivity of his mission. During his visit, the Special Rapporteur met with the country's highest officials, including President Laurent Gbagbo and the President of the Economic and Social Council, Mr. Laurent Dona Fologo. He was particularly keen to integrate his visit in the democratic process under way by meeting with the country's main political groups, including Forces nouvelles. He also met with victim populations, representatives of civil society, human rights defenders, diplomats and representatives of the communities concerned. In addition to Abidjan, the Special Rapporteur travelled to Yamoussoukro, Bouaké, Duékoué, Gagnoa and Guiglo.

14. At the end of his visit, the Special Rapporteur concluded that, owing to its strong inter-ethnic network, there is no tradition of xenophobia in Côte d'Ivoire, although it has experienced ethnic tensions during its history. However, it has become caught up, in the context of the current crisis, in a dynamic of xenophobia. In his view, this dynamic stems from a concatenation of several factors, which, if they are not adequately analysed and if proper solutions are not found urgently, may lead to the emergence of real xenophobia, that is a system in which the perception of the other has a profound impact on individual consciousness and behaviour, shaping social, economic and political relations and being reflected in laws and institutions. The first factor identified by the Special Rapporteur is the ethnic tension that arose in 1990 with the transition, in a context of multi-ethnicity, from a one-party system to a multiparty system. Precisely in this context of democratic transition, the instrumentalization of the ethnic group in politics and the media constituted a temptation that politicians were unable to resist in their pursuit of power. Objectively, this temptation to exploit the ethnic factor found ideological expression in the emergence of the concept of *ivoirité* ("Ivorianness"), which, in a climate of political competition marked by ethnic tension, was given an ethnicist interpretation and application, whatever the "cultural" motives proclaimed by its originators. This concept profoundly influenced the political debate, perverted the democratic process and gradually reshaped the perception of inter-ethnic relations. Then, the outbreak of war, in a context of aggravated ethnicism and communal tension, had a radicalizing effect, accelerating this dynamic of xenophobia. Lastly, the Special Rapporteur believes that the tendency he observed during his stay to confuse ethnicity and religion, the feeling of impunity on the part of those responsible for acts of xenophobic violence, notably members of the security services, but also some factions of Forces nouvelles, and the conflictual and antagonistic interpretation of cultural and ethnic diversity are particularly worrisome manifestations of the role of ethnic factors in the conflict in Côte d'Ivoire.

15. Given the scale of the political crisis and the split in the inter-ethnic fabric, the Special Rapporteur underlines the need for all those involved in the crisis in Côte d'Ivoire, including the most senior political leaders, to broadcast a clear message acknowledging the risk of a division along ethnic lines and asserting their resolve to combat this dynamic of xenophobia in all its forms and to punish all acts of violence. He also believes that any lasting political solution to the crisis facing Côte d'Ivoire must be accompanied by a democratically prepared programme to rebuild coexistence and intercommunity dialogue in Côte d'Ivoire, because this would contribute to rebuilding the deeply torn inter-ethnic and social fabric. The Special Rapporteur also stresses the fact that the imperative of rebuilding coexistence among the communities must be the yardstick in analysing and solving

crucial and sensitive issues such as those of rural land tenure and nationality. Lastly, the regional dimension, which has had a major influence in the history of inter-ethnic relations in Côte d'Ivoire, as well as in the evolution of the current political crisis, must also be taken into account in efforts to mend Ivorian society's strong inter-ethnic network.

16. From 26 June to 13 July 2004, the Special Rapporteur visited the Central American region. He travelled to Guatemala, Honduras and Nicaragua at the invitation of the respective Governments of those countries. The Special Rapporteur would like to give a brief overview of his findings in each country, as the visit will be the subject of an exhaustive report to be submitted to the Commission on Human Rights at its sixty-first session in March 2005. The mission was prompted by the need for the Special Rapporteur to help to shed light on two particularly significant factors in the problem of racism in the region: the depth of the historical legacy of racism and discrimination, the ideological underpinning of the slave-holding and colonial systems, which has had a deep influence on the structure of societies in the hemisphere; and the impact of the political violence that has marked the recent history of Central America on communities of indigenous people and people of African descent, which have historically experienced discrimination. These are countries with similar ethnic and demographic features and common historical and political legacies. These countries in transition towards peace-building, social cohesion and consolidation of democracy are of particular interest with respect to the structuring and management of ethnic, racial and cultural pluralism.

17. The Special Rapporteur observed three trends in all three countries that reveal the existence of deeply rooted discrimination: a troubling correlation between poverty-stricken areas and areas inhabited by communities of indigenous people and people of African descent; the marginal involvement of representatives of those communities in power structures — the government, parliament and the judiciary — as well as their insignificant presence in decision-making positions in the media; and their treatment in the media as objects of folklore. He also found, to varying degrees in the three countries, a lack of awareness of how extensive and deeply rooted discrimination is, among both the political authorities and the population as a whole. The Special Rapporteur notes, by contrast, statements by civil society actors he spoke with, as well as testimony from members and representatives of all the communities concerned, that the societies of all these countries remain deeply imbued with racial prejudice and discriminatory practices against indigenous peoples, prejudices inherited from the colonial conquest and the slave-holding system, which, by subjugating these peoples and belittling their identities and cultures on the basis of an openly racist ideology, have effectively marginalized them in a lasting way at the political, social, economic and cultural levels. Despite principled claims of being multicultural, the Hispanic legacy and identity of these countries are highlighted to the detriment of the legacies of indigenous peoples or people of African and indigenous descent, which are reduced to folklore. The rejection of the reality of ethnic pluralism, in political, cultural and social terms, is particularly evident in everyday life through discriminatory acts such as frequent denial of access to public places. Denying people the opportunity to express their identities in such places is one of the most telling forms of discrimination. The inadequacy of public services (education, health and justice in particular) in areas inhabited by these communities and the absence of genuine bilingualism are objective demonstrations of the lack of social and cultural integration of these

peoples. Thus, indicators of health, education and housing for these peoples remain lower than for the rest of the population.

18. In Guatemala, the Special Rapporteur found that the process of strengthening democracy and peace-building begun nearly 10 years ago following the signing of the peace agreements, has progressed considerably, particularly with regard to legislation and the institutional protection of human rights. A law against racial discrimination has been adopted and the country has established two important commissions, the Presidential Human Rights Commission and the Presidential Commission on Discrimination and Racism against Indigenous Peoples. A special prosecutor for human rights and an advocate for indigenous women complement this institutional framework. The judicial system has also undertaken reforms to free itself from the sway of the other branches of power, draw closer to the people and break the cycle of impunity that has long characterized certain actions by the State, as well as by individuals.

19. The Government has committed itself to the implementation of the peace agreements, where the resolution of the question of ethnicity remains an essential dimension. The Vice-President of the Republic, with whom the Special Rapporteur met, said that he was aware of the persistence of racial discrimination in Guatemalan society, a phenomenon reduced by most political authorities with whom the Special Rapporteur met to economic and social discrimination alone. The Government has expressed its willingness to conduct political, economic and social reforms to enable indigenous peoples to participate at all levels. Special efforts are reportedly being contemplated to encourage public officials to be more sensitive to the cultural diversity of the country and adopt a multicultural perspective and non-discriminatory attitudes in their relations with citizens. Unlike the previous Government, the current administration has stated its readiness to implement the provisions of the peace agreements relating to indigenous peoples, including with respect to bilingual education, the provision of health services and access to justice in the languages of the peoples concerned. Efforts will also be made to give greater consideration to customary law in the settlement of disputes involving members of indigenous communities. The Special Rapporteur recommended in particular that the Government of Guatemala should acknowledge at the highest level the persistence of racism and discrimination against communities of indigenous people and people of African descent and evaluate their forms, manifestations and impact at the economic, social and cultural levels. He also recommended that a national plan to combat racism and racial discrimination should be developed in a democratic manner on the basis of the Durban Declaration and Programme of Action. The campaign against racial discrimination should be combined with the building of an authentically multicultural society promoting both the expression of specific cultures and identities and interaction between the members of the various communities and knowledge of and respect for one another. He further recommended that all organizations of the United Nations system present in Guatemala should grant an important place in their mandates to the struggle against racism, discrimination and xenophobia by promoting policies and programmes to that end.

20. In Honduras, the Special Rapporteur noted in particular the neglected state of the department of Gracias a Dios — inhabited mostly by the Miskito and Garifuna — which lacked essential health and education infrastructure and was emblematic of the degree of marginalization of those peoples. This marginalization

is illustrated, inter alia, by the deplorable situation of crayfish fishers, who suffer cerebral and physical injuries owing to the frantic pace of underwater dives imposed by the boat owners and receive no social or medical assistance, particularly in the city of Puerto Lempira. On the Caribbean coast, the Garifuna people, who have maintained a strong cultural identity, believe that they have been kept on the margins of Honduran society and fear that they will eventually lose their language because of the shortage of bilingual programmes and control of their ancestral lands by tourism development interests that do not respect their rights and cultural identity. Indigenous peoples also suffer from the inadequacy of government efforts to provide bilingual education.

21. The Honduran Government is beginning to grasp the seriousness of the situation of indigenous and Garifuna peoples while failing to recognize the reality and cultural depth of racism and racial and ethnic discrimination. The limited number of complaints of racism, put forward as an indicator of the absence of discrimination, should rather be seen as a sign that racism is a feature of life and that victims are unaware of their rights and, in particular, of the penalties for racist acts, owing to the Government's silence. An economic, social and political profile of these peoples has been developed recently with the support of the World Bank and should, in the opinion of the Special Rapporteur, help to meet their needs. He recommended that the Government should make a firmer commitment to combating racial discrimination, particularly by developing a plan of action, and that it should place greater value on the country's ethnic diversity in order to build a genuinely multicultural and egalitarian society. He also proposed that effective measures should be taken to counter the most visible effects of racial discrimination in the areas of education, health and housing. The employers of stricken crayfish fishers should make arrangements to compensate them and persons employed in this industry should be better protected. The International Labour Organization (ILO) should pay more attention to the right of Honduran crayfish fishers to organize unions. It is also necessary to conduct a broad campaign against racial discrimination and raise awareness among victims of the recourse open to them.

22. In Nicaragua, as in Honduras, the Government considered that there was neither racism nor racial discrimination in the country. The complex ethnic and racial make-up of the population resulting from intermarriage would make manifestations of those phenomena improbable. By contrast, the representatives of indigenous peoples and people of African descent consider themselves victims of racism and racial discrimination. The historical discrimination that these peoples have endured has been reinforced by the political violence that the country has suffered and, in particular, by the political, social and military manipulation of these peoples by all factions in the internal conflict in Nicaragua. Their grievances stem, inter alia, from the infringement of their cultural identities and land rights and the low level of investment by the State in regions where they live, as well as their insignificant representation in power structures. The Special Rapporteur found a deep ethnic, social and economic rift between the Pacific and Atlantic regions. The Pacific regions remain predominantly mestizo — with some indigenous communities — and are experiencing a measure of development, whereas the Atlantic regions, inhabited mostly by indigenous peoples and people of African descent, are isolated and lack basic infrastructure. As in Guatemala and Honduras, the map of poverty and economic and social marginalization coincides with the geographic distribution of peoples who consider themselves to be victims of

discrimination. The autonomy granted to the North and South Atlantic regions has created the institutional framework for the peoples of these regions to plan and assume responsibility for their own development but, owing to the shortage of financial resources coming from the central Government, they have not yet been able to benefit effectively from this decentralization.

23. Although he is aware of the economic difficulties confronting Nicaragua for more than two decades in the wake of internal conflicts and natural disasters affecting it, the Special Rapporteur nevertheless believes that the Government should listen more closely to the peoples whose objective experience of discrimination should henceforth be recognized and treated in all its dimensions, cultural, economic and social, by a national programme to combat racism and discrimination and build a democratic, egalitarian, interactive and multicultural society. There should be greater dialogue with the leaders and peoples of the autonomous Atlantic regions in order to identify the economic and social areas that require priority intervention and the allocation of adequate resources. The Special Rapporteur also considers that the process of granting land rights to indigenous peoples should take account of their habits and customs and ensure, through negotiation, that their interests and ancestral rights are not violated. In that respect, the Government should consider ratifying and implementing ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

24. Concerning future missions, the Special Rapporteur has begun consultations with Japan, Pakistan, India, Nepal and the Russian Federation, which he would like to visit shortly, consultations that he hopes will succeed, reflecting the commitment of those countries to combating racism, discrimination and xenophobia.

# III. Manifestations of racism, racial discrimination, xenophobia and related intolerance

## A. Upsurge of xenophobia and weakening of protection against certain forms of discrimination

25. The issue of discrimination is undergoing a deep transformation because of its current ideological context and scope. The ideological context, which has been largely determined by the priority given to counter-terrorism, has resulted not only in the marginalization of efforts to combat discrimination but also the appearance of new forms of discrimination. The international commitment to combating racial discrimination, racism and xenophobia, which was reaffirmed by the holding of the Durban Conference and embodied in the Declaration and Programme of Action adopted there, has been eroded if not marginalized by the international priority given to counter-terrorism, particularly following the tragic events of 11 September 2001. Moreover, because of this ideological and political shift, the scope of discrimination itself has grown more complex as race, or ethnicity, is conflated with religion and culture.

26. These two developments spotlight a central aspect of discrimination that is often overlooked: its cultural depth. The increasing economic and social impact of discrimination, which continues to be reflected in the persistent link between discrimination, poverty and social marginalization, is now accompanied by an overemphasis on ideology, culture and ethnicity and the emergence of new targets of

discrimination: the non-citizen, the immigrant, the refugee and the "strange stranger", owing to his ethnic, cultural or religious traits. In this context, the Special Rapporteur expresses his deep concern about the ethnic dimension of the massacre committed in Burundi in a refugee camp near the border with the Democratic Republic of the Congo and stresses the urgent need not only to punish those responsible but also for the international community to take measures to protect the minorities living in those countries.

27. People have reacted to this new ideological landscape by turning in on themselves, which has had perverse effects such as cultural conflicts and especially new discriminatory practices that target communities, ethnic groups, religions and spiritual traditions. An alarming feature of this new ideological landscape is the decline in the political and ethical determination to combat racism and discrimination. The front against discrimination has been broken by isolationism and a tendency among victims to turn in on themselves to ponder their own tragedies. The effectiveness of the fight against discrimination has been weakened in its universal dimension of solidarity by this phenomenon of retreat and even competing claims of victimization. In France, an anti-Semitic attack in the public transport system supposedly committed by young Arabs and Africans, who were said to have drawn swastikas on the body of a young woman, later turned out to be a story made up by the victim. Without verifying the facts, the media and senior politicians wasted no time in referring to those young people, publicly and repeatedly, as typical and natural guilty parties in the "crime". The so-called RER C train incident — an unfortunate illustration of the exploitation of the fight against racism, discrimination and xenophobia by politicians and the media, revealing a readiness to assume "typical and natural guilt" on the part of certain communities and ethnic groups — is proof, in the last analysis, of a deep-seated racist and discriminatory culture and mentality in some influential political, media and intellectual circles. We have seen the re-emergence, in statements by politicians and in news stories and opinion pages, of expressions and concepts referring to entire groups and communities drawn from past racist and discriminatory rhetoric. This incident should therefore sound a real alarm concerning the need for and urgency of a set of ethics to combat racism and discrimination based on the idea that this fight is universal, all victims are equal and the problem must be dealt with rigorously. Otherwise, some forms of combating racism and discrimination are liable, in a perverse way, to strengthen these scourges. In the current context of overemphasis on security and isolationism, the political manipulation of ethnicity, race and religion and, in the last analysis, the rejection of cultural diversity constitute the electoral platform for a growing number of political parties in all regions of the world. Behind the demands for national preference often lies a xenophobic, racist and discriminatory political programme seeking legitimacy.

28. We are witnessing the invention of new forms of speech that seek to legitimize racism, xenophobia and intolerance, including through radically uncompromising positions on cultural, ethnic and religious diversity. Such speech, often used by politicians, is increasingly being rationalized and put into theory by certain important schools of thought. Samuel Huntington exemplifies this trend. In his most recent book *Who Are We?: The Challenges to America's National Identity*,[1] he asserts that the presence in the United States of America of "Latino" immigrants

[1] Samuel P. Huntington, *Who Are We?: The Challenges to America's National Identity*, Simon & Schuster, 1994.

from South America is a threat to the American identity. He thereby deepens the theoretical rift established by his notion of a clash of civilizations and designates a new object of discrimination, the "Latino". In this context, the spreading of racist and discriminatory speech constitutes a double distortion of the democratic ideal, through its dissemination using new communication technologies such as the Internet and through the manipulation of freedom of expression and opinion and, more seriously, through its pervasiveness and ability to structure political debate and influence traditionally democratic political parties and its legitimization by the intellectual and academic world. The current upsurge of discrimination, which has revealed a new paradigm of strengthened links between racism and xenophobia, confirms just how pervasive discrimination is, even in countries that have shown an undeniable political and democratic will and developed comprehensive legal strategies to combat racism and confront their historical experience. It has become clear that, while anchoring human rights in legal instruments is a fundamental way of achieving progress and expressing the universality of those rights, it is no longer capable of eliminating or even grasping the underlying causes of discriminatory culture and mentalities. The new battle grounds in the struggle against discrimination — identity constructs, value systems, images and perceptions — therefore raise the issue of renewing or deepening the notion of human rights. Action on human rights must henceforth be encouraged and renewed by discussing the underlying causes of racism, discrimination and xenophobia. In this context, the Special Rapporteur recalls the importance of an intellectual front to combat racism and his recommendation concerning the urgent need for an intellectual and ethical strategy to combat racism that targets precisely the deep and intangible sources of racist culture by uncovering and analysing in detail the seedbeds and roots of racism: ideas, concepts, images and perceptions. The warning sounded by Bertolt Brecht in the wake of the Second World War is now more topical than ever: "The womb from which the vile beast emerged is still fertile."

## B. Racist propaganda on the Internet

29. The Internet has been used since the mid-1990s as an instrument for widespread dissemination of heinous speech by racist and xenophobic organizations. According to the Simon Wiesenthal Center, there are now several thousand sites engaged in racist propaganda, xenophobia and related intolerance, whereas in 1995 there was only one. The Durban Programme of Action, adopted by consensus on 8 September 2001, recommended that States should encourage the media to adopt self-regulatory measures to enable them to combat the use of the Internet for racist ends and apply legal sanctions against any incitement to racial hatred (A/CONF.189/12 and Corr.1, paras. 144-147). However, in order to prevent the use of the Internet to spread racism and discrimination, we must find a solution compatible with international law and the need to reconcile the contradiction between respecting freedom of expression and respecting the values and principles of international law, including the condemnation of discrimination and racism. The Parliamentary Assembly of the Council of Europe, in its recommendation 1438 (2000), stated that "legislation should be enacted — where it does not exist — to prohibit oral or written instigation to racism, anti-Semitism and xenophobia; freedom of expression cannot be accepted as an excuse for it".

30. In that respect, the Special Rapporteur welcomes the adoption on 7 November 2002 by the Committee of Ministers of the Council of Europe of the Additional Protocol to the Convention on Cybercrime concerning the Criminalization of Acts of a Racist or Xenophobic Nature Committed Through Computer Systems. The Protocol, signed by 23 States but not yet in force, defines the common legal bases of parties to suppress the dissemination of written materials, images or any other representation of ideas or theories that advocate or encourage hatred, discrimination or violence against a person or group of persons on the basis of race, colour, descent or national or ethnic origin, or religion. The Protocol also provides for international cooperation to combat racist or xenophobic propaganda through the use of computers. Consideration should be given to establishing a similar document at the international level in the form of an additional protocol to the International Convention on the Elimination of All Forms of Racial Discrimination so that more States can adopt legal measures to combat the use of the Internet for racist or xenophobic purposes.

31. However, disagreements remain on the most appropriate strategy for preventing dissemination of racist messages on the Internet, including the need to adopt regulatory measures to that end, as emerged from the meeting on the relationship between racist, xenophobic and anti-Semitic propaganda on the Internet and hate crimes held by the Organization for Security and Cooperation in Europe (OSCE) in Paris on 16 and 17 June 2004. The United States opposes any regulation, on freedom-of-expression grounds, while the European countries are more in favour of a policy of monitoring and sanctions. The meeting made no specific recommendations but urged that Internet users should be educated about tolerance and that cooperation should be promoted among all actors, particularly non-governmental organizations and associations working to combat racist, anti-Semitic and xenophobic propaganda on the Internet.

## C. Racism and sports

32. Racism has also risen in sport, with incidents being most common at European football stadiums. During the Euro 2004 France-Croatia match in Portugal, members of the French team, particularly Sylvain Wiltord, were the target of shouted jungle calls and insults such as "Go back to Africa!". Around 1,000 Croatian fans reportedly joined in the racist abuse, and two Croatian banners bore the Celtic cross, as a symbol of the international "White Power" movement. There were also racist incidents between players. In 2003, a South African player was banned from taking part in the Rugby World Cup by the team manager for refusing to share his room with a black teammate. In Eastern Europe, anti-Semitism has been seen among supporters calling one another "Jews" and waving neo-Nazi and neo-Fascist banners in the stands. Far-right organizations have regularly found their way into stadiums, where they have handed out their racist propaganda and displayed their banners. Some countries have taken action: in Italy, for example, displaying racist banners can lead to the match being suspended. Racism has also invaded the tennis court: Serena Williams, who was repeatedly booed and whistled at during the semi-final of the Roland Garros tennis tournament in 2003, attributed the spectators' behaviour to racism.

33. The International Federation of Association Football (FIFA) and the International Olympic Committee must work together to combat growing racism in

football stadiums and at other sports venues. FIFA action against racism has included a congress held in Buenos Aires on 6 July 2001. The congress issued a resolution requiring "all persons involved directly or indirectly with the sport of football at all levels and in all countries to join a concerted action to exchange information and experiences in order to combat effectively and conclusively all manifestations of racism within the game, by denouncing and sanctioning all persons indulging in racism in any form". In 2002, it also launched an annual Anti-Discrimination Day, marked by various activities clearly signalling that racism and discrimination are unacceptable in football and in society as a whole. In March 2003, the FIFA Executive Committee adopted a new rule making the handshake between members of opposing teams an integral part of official protocol for the Confederations Cup. This "final gesture of protocol" was intended to set a sporting example, reminding spectators that respect for rivals and referees comes before the contest itself.

34. Beyond the action taken by FIFA, the Union of European Football Associations (UEFA) has also stepped up its campaign against racism. In July 2003, together with Football Against Racism in Europe (FARE), it launched an anti-racism guide to help the football community to confront that phenomenon. FARE has continued to organize an annual anti-racist world cup in Montecchio in Italy. It is both a sporting and a cultural event which brings together artists and non-professional footballers of European and immigrant backgrounds.

35. FIFA and UEFA have made important contributions to putting a stop to racism in football stadiums, but the International Olympic Committee and the International Tennis Federation need to adopt similar measures. These international sporting bodies should work actively with each other, with the United Nations system and with Member States. The Special Rapporteur wishes to keep a record of racist incidents in sport and the action taken against such incidents by sporting bodies, whose collaboration he is seeking in that task.

## D. Racism connected with anti-Semitism and Islamophobia

36. In the ideological context of post-11-September counter-terrorism efforts, discrimination and racism have acquired a growing presence in the sphere of religion. Culture, religion and ethnic origin are being confused with one another and used as excuses for deliberate acts of discrimination. A new, openly and publicly expressed thinking has emerged, according to which racism and discrimination are justified and legitimized by security considerations or the need to defend a "threatened identity" and ethnic, cultural and religious pluralism are rejected, producing discriminatory or xenophobic practices of various degrees of seriousness, depending on the country. This thinking has created a situation in which influential intellectuals and opinion-formers increasingly link Islamophobia, terrorism and violence. One such person is Oriana Fallaci, an Italian writer and journalist living in New York. In her recent book *La Forza della ragione* (The Force of Reason),[2] she expands on her hostility towards Islam and her view that the United Nations is "Islamophilic" and claims that the Organization, "together with the ineffable European Union, invented the crimes of Islamophobia and defaming Islam". In a direct attack on the Special Rapporteur, she calls the description in his latest report

[2] Oriana Fallaci, *La Forza della ragione*, Milan, Rizzoli, 2004.

to the Commission on Human Rights of physical and verbal violence suffered by Muslims in the United States and Europe after 11 September 2001 libellous. She makes other attacks, before concluding that the report of the Special Rapporteur "is but a tiny part of the auto-da-fé of a former bigwig of UNESCO, an organization with a Sovietophilic past". She then claims that "in Geneva, Doudou [Diène] will ask the Holy Office of the United Nations to devise 'a strategy to eradicate any ideology that defames Islam and to encourage a world congress to monitor how history is written — or, rather, taught'". It is precisely this kind of reasoning that leads intellectuals and political leaders of the far right to deny the resurgence of anti-Semitism and engage in historical revisionism.

37. The Durban Declaration strongly condemned "the increase in anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas against Jewish, Muslim and Arab communities" (A/CONF.189/12 and Corr.1, para. 61). The General Assembly, in its resolution 58/160 on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance, confirmed that analysis, expressing deep concern about the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities.

38. In his report to the Commission on Human Rights at its sixtieth session, the Special Rapporteur emphasized this recent and alarming resurgence of anti-Semitism and the importance of investigating the underlying causes and manifestations of both anti-Semitism and Islamophobia and finding ways and means to combat them. He also recommended that the Commission should formally support the submission of a report on Islamophobia and anti-Semitism at each of its sessions. In his report on the situation of Muslim and Arab peoples in various parts of the world, submitted to the Commission at the same session, the Special Rapporteur emphasized the importance of assessing rigorously and systematically all manifestations of racism, anti-Semitism and Islamophobia and invited the Commission to recommend that the Office of the United Nations High Commissioner for Human Rights should establish a centre to monitor the contemporary phenomena of racism, anti-Semitism and Islamophobia and entrust it with developing a scientific methodology for precise measurement of such phenomena and, in collaboration with the Special Rapporteur, preparing an annual report thereon for submission to the Commission and the General Assembly.

39. In his opening remarks at the seminar on anti-Semitism held by the United Nations in New York on 21 June 2004, the Secretary-General recalled that the Commission on Human Rights, at its most recent session, had asked the Special Rapporteur to examine the situation of Muslim and Arab peoples in various parts of the world, with special reference to physical assaults and attacks against their places of worship, cultural centres, businesses and properties. Echoing the original proposal of the Special Rapporteur, the Secretary-General recommended that he, and the Special Rapporteur on freedom of religion or belief, should "actively explore ways of combating anti-Semitism more effectively in the future".

40. The Special Rapporteur therefore concluded that the position of the Secretary-General justified taking Commission on Human Rights resolution 2004/6 to mean that he should submit to the Commission at its next session reports on Islamophobia,

anti-Semitism and Christianophobia. To that end, working with the UNESCO Centre in Catalonia, he plans to organize a high-level seminar of experts in Barcelona and to use the results of the seminar as a basis for his reports.

# IV. Action taken or planned by Governments, judicial authorities or other bodies

## A. Canada

41. The Special Rapporteur welcomes the new plan of action against racism which the Canadian Government transmitted to him after his visit and is currently finalizing. The plan encourages closer cooperation among governments, community organizations, public institutions and individuals. It covers seven priority areas: recognition of the past, help for vulnerable groups and victims of racism and related discrimination, innovative approaches to combat racism and integrate diversity, strengthening the role of civil society, strengthening regional and international cooperation, educating children and young people about combating racism, and combating hate and prejudice. The Government agreed to a follow-up visit, which the Special Rapporteur will use to ensure that the plan of action is in line with his own report and recommendations.

## B. Switzerland

42. In July 2003, the Federal Court issued a ruling which would end the practice of voting on applications for naturalization. The Court's intention was to ensure compliance with the Constitution, which prohibits any discrimination in naturalization procedures. The Swiss Federal Commission against Racism believes that this decision will help to prevent discrimination and rejection of applicants for Swiss citizenship on racist grounds. The Court is also requiring, as an additional guarantee, that decisions rejecting applications for naturalization should be substantiated in writing.

43. The Swiss Federal Commission against Racism (CFR) has published a series of posters for use as teaching aids, focusing on practical issues and dealing with various forms of racism, anti-Semitism and xenophobia. They encourage pupils and teachers to confront racism head-on by taking a self-critical look at their own behaviour.

## C. The Netherlands

44. The Special Rapporteur welcomes the adoption on 10 February 2004 of a law establishing that individuals must receive equal treatment, regardless of their racial or ethnic origin, and providing a framework for equal treatment in recruitment and professional matters. The Netherlands has also made changes to its Criminal Code, introducing harsher maximum penalties for institutional race discrimination. The Special Rapporteur is deeply concerned, however, about the effect on combating racism, discrimination and xenophobia of the Government's proposed strict deportation plans for illegal immigrants, and he is appealing to the Government to re-examine the suitability of those proposals in the light of its avowed commitment to countering racism.

# V. Conclusions and recommendations

45. **The Special Rapporteur will submit to the Commission on Human Rights at its sixty-first session detailed recommendations on the issues covered by his mandate, particularly in the light of his visits. He therefore wishes to draw the attention of the General Assembly to the following:**

- **When contemplating future measures against racism, discrimination and xenophobia, the General Assembly is invited to consider the complicating factor that contemporary forms of racism conflate religion and culture with ethnicity or race;**
- **The General Assembly is invited to take into account and alert Member States to the growing importance of the intellectual front in the fight against racism, discrimination and xenophobia and the need to devise an intellectual strategy for combating those phenomena in the domain of ideas, concepts, images, perceptions and value systems;**
- **In the light of the "RER C train" incident in France, the General Assembly should speak out against the exploitation of the fight against all forms of racism as a political, media and intellectual tool, and in favour of a set of ethics for that fight based on the values of universality, equality and objectivity;**
- **The General Assembly is invited to alert the Member States to the need to take the necessary legislative and judicial action, as well as measures in the area of information and education, in order to ensure that the legitimate struggle against terrorism does not result in or breed new forms of discrimination targeting specific populations, religions, cultures or ethnic groups;**
- **In the context of implementing the Programme of Action of the Durban Conference, the General Assembly is invited to focus its attention on the latest forms of discrimination, which affect, in particular, immigrants, refugees and non-citizens and make them particularly vulnerable;**
- **The General Assembly is invited to draw the attention of Member States to the resurgence of xenophobia and to the fact that, while anchoring human rights in legal instruments is a fundamental way of expressing their universality, it is no longer capable of eliminating the underlying causes of discriminatory culture and mentalities. Action on human rights must henceforth include discussion of the deep cultural roots of racism;**
- **The General Assembly is invited both to draw the attention of all Member States to increased racism in sports and to call on international sports entities to take appropriate measures to eradicate it and cooperate to that end with the relevant human rights mechanisms, in particular the Committee on the Elimination of Racial Discrimination and the Special Rapporteur;**
- **Finally, the General Assembly is invited to alert all Member States to the need to adopt measures to counter the dissemination of discriminatory, racist and xenophobic messages on the Internet, in accordance with paragraphs 144 to 147 of the Durban Programme of Action.**